



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO Southern Finishing Company, Inc.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307, 10.1-1309 and § 10.1-1316 between the State Air Pollution Control Board and Southern Finishing Company, Inc., for the purpose of resolving certain violations of State Air Pollution Control Law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Virginia Code § 10.1-1301 and 10.1-1184
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Southern Finishing Company, Inc." or "Southern Finishing" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Source" means the facility and related structures located at 801 East Church Street located in Martinsville, Virginia, which is owned and operated by Southern Finishing.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Southern Finishing Company, Inc. (Southern Finishing), owns and operates a facility located at 801 East Church Street in Martinsville, Virginia (the Source). Southern Finishing purchased the Source in February 2002. The Source is the subject of a Title V operating permit dated December 17, 1999, issued by DEQ to Southern Finishing's predecessor, which allows the operation of a wood furniture manufacturing facility. The Title V permit was transferred to Southern Finishing at the date of purchase. In addition to the Title V permit, the Source is subject to 40 CFR 63 Subpart JJ, 40 CFR 63 Subpart RRRR, 40 CFR 60 Subpart EE, and the Virginia State Air Pollution Control Law, Virginia Code 10.1-1182, et seq. The Source also has a stationary source permit issued on May 5, 2004, by DEQ to construct and operate two metal finishing spray booths and three wood finishing spray booths.
2. In February 2004, DEQ staff conducted an inspection and file review of the Source. During this inspection, DEQ observed and noted the following violations of federal and state air pollution control regulations:
 - A. The Source failed to submit periodic monitoring reports in accordance with Appendix A of a Special Consent Order issued to Southern Finishing by DEQ effective October 17, 2003. The Source failed to submit reports for the periods of February 2002 through May 2002 and June 2002 through November 2002. These reports were due to DEQ on June 30 and December 30, 2002, respectively.
 - B. The Source failed to submit the Annual Compliance Certification in accordance with Appendix A of the Special Consent Order. The Source failed to submit reports for the period of February 2002 through May 2003.
 - C. The Source failed to comply with Condition 36 of the Title V permit, which requires the submission of Semi-Annual Periodic Monitoring reports. The Source failed to submit reports for the periods of December 2002 through May 2003 and June 2003 through November 2003. These reports were due to DEQ on June 30 and December 30, 2003, respectively.

- D. The Source failed to submit the Supplemental Environmental Project (SEP) Completion Report in accordance with Appendix B of the Special Consent Order. The Source was required to complete the SEP within 6 months of the effective date of the Order. The filters have been installed since September 10, 2003.
- E. The Source failed to submit the Initial Compliance Report required by 40 CFR 63 Subpart RRRR. The report was due to DEQ by January 30, 2004 for the period of July 1, 2003 through December 31, 2003.
3. DEQ issued Southern Finishing a Notice of Violation (No. 2004-05-25) for these violations on June 2, 2004.
4. Staff conducted an inspection and partial compliance evaluation of the Source on May 7 and 10, 2004 and noted the following violations of federal and state air pollution control regulations:
- A. Staff observed the use of a conventional gun in one of the wood finishing spray booths in violation of 40 CFR Part 63 Subpart JJ.
- B. The Source failed to maintain records to demonstrate that cumulative total usage of finishing materials was no more than 5% of the total gallons of finishing material during each semiannual period as required by 40 CFR §63.806.
- C. The Source failed to maintain the following records for the period of March 25, 2003 through January 1, 2004 as required by 40 CFR §63.803 b and c:
- Operator training program records including a list of all current personnel by name and job description that are required to be trained; an outline of subjects to be covered in the initial and refresher training for each position or group of personnel; lesson plans for courses to be given at the initial and annual refresher training sessions; a description of the methods to be used at the completion of initial or refresher training to demonstrate and document successful completion.
 - Inspection and Maintenance plan records including monthly visual inspections, an inspection schedule, methods for documenting the date and results of each inspection; and the timeframe between identifying the leak and making the repair.
 - Records associated with the cleaning and wash-off solvent accounting system

- Certified Product Data Sheets for several wood furniture finishing coatings
- D. Staff observed several containers of finishing materials with unsecured lids in violation of 40 CFR §63.803g.
- E. Staff observed the construction of a new wood furniture spray booth. Staff asked employees of the Source about the timing of the installation. They answered that construction of the spray booth had commenced approximately two weeks prior to obtaining a permit as required by 9 VAC 5-80-1100, et seq. 9 VAC 5-80-1120A states: "that no owner or other person shall begin construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct or to modify and operate the source." Additionally, 9 VAC 5-80-1210D states: "Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
- F. Staff observed the presence of dry filters in the wood finishing spray booths for controlling particulate matter emissions. Staff observed several large holes in the filter media and determined that these filters were no longer effective as control equipment. The cited regulation for this violation is 9 VAC 5-50-20E, which states that at all times, including periods of startup, shutdown, sootblowing, and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions.
- G. The Source failed to conduct fuel burning monitoring in accordance with Condition 6 of the Title V permit for the period of March 25, 2003 to January 1, 2004.
- H. The Source failed to comply with Condition 7 of the Title V permit for the period of March 25, 2003 to January 1, 2004, which includes the following:
- Failure to develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance for the multicyclones.
 - Failure to develop an inspection schedule and maintain inspection results for the multicyclones.
 - Failure to develop written operating procedures for the multicyclones.
 - Failure to train operators in the proper operation of the boilers and multicyclones and maintain records of operator training.

I. The Source failed to comply with fuel burning recordkeeping requirements in violation of Condition 8 of the Title V permit for the period of March 25, 2003 to January 1, 2004 including the following:

- Failure to maintain records of annual combustion of each fuel (wood in tons, fuel oil in gallons) in the Bigelow boilers, calculated monthly as the sum of each consecutive 12-month period.
- Failure to maintain records of the sulfur content of each shipment of No. 2 fuel oil to be burned in the Bigelow boilers.

J. The Source failed to conduct woodworking monitoring in accordance with Condition 12 of the Title V permit for the period of March 25, 2003 to January 1, 2004. The Source had not been conducting weekly observations for the presence of visible emissions from the fabric filters.

K. The Source failed to conduct monthly fabric filter inspections in accordance with Condition 13 of the Title V permit for the period of March 25, 2003 to January 1, 2004.

L. The Source failed to comply with Condition 16 of the Title V permit for the period of March 25, 2003 to January 1, 2004 including the following:

- Failure to develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance for the furniture finishing operation.
- Failure to produce written operating procedures for the spray booths.
- Failure to conduct and maintain records of spray booth operator training.
- Failure to conduct weekly observations of the presence of visible emissions from the spray booths stacks and maintain a furniture finishing observation log.

5. DEQ issued Southern Finishing a Notice of Violation (No. 2004-05-24) for these violations on June 2, 2004.

6. In February 2005, DEQ staff conducted a partial compliance evaluation of the Source. Based on this compliance evaluation, DEQ noted the following violations of federal and state air pollution control regulations:

A. Although Southern Finishing submitted a Title V Semi-Annual Deviation Report for the period of December 1, 2003 to May 31, 2004, that report did not include the Certification Statement as required and it did not address

deviations that had occurred during the reporting period. On March 11, 2005, the facility re-submitted the Title V Deviation Report.

B. Although Southern Finishing submitted a Title V Semi-Annual Deviation Report for the period of June, 2004 to November 30, 2004, that report failed to identify compliance deficiencies that had occurred during the reporting period and enforcement actions that had commenced as a result. The report was re-submitted on March 11, 2005.

C. Southern Finishing failed to submit the Semi-Annual Report required by 40 CFR 63.4920 for the period of January 1, 2004 to June 30, 2004. The report was due by September 1, 2004. Southern Finishing submitted the report on March 11, 2005.

7. DEQ issued Southern Finishing a Notice of Violation (No. 2005-04-11) for these violations on April 11, 2005.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders Southern Finishing Company, Inc., and Southern Finishing Company, Inc. agrees, to comply with the terms and conditions set forth in **Appendices A and B** of this Order and to pay a civil charge of **\$161,870.00** in settlement of the violations cited in this Order.

1. **\$16,187.00** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall include Southern Finishing Company's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

2. **\$145,683.00** of this civil charge shall be satisfied upon completion by Southern Finishing Company of a Pollution Prevention Project (P2) pursuant to Virginia Code 10.1-1186.2 as described in Appendix B of this Order.
3. The Department has the sole discretion to:
 - a. authorize any alternate SEP/P2 proposed by the Source; and

- b. determine whether the SEP/P2, or alternate SEP/P2 has been completed in a satisfactory manner.
4. Should the Department determine that the SEP/P2, or alternate SEP/P2, has not been completed in a satisfactory manner, the Department shall notify Southern Finishing Company Inc., of such in writing. Within 30 days of such notification, Southern Finishing Company shall pay the full amount specified in Paragraph 2 above in accordance with the procedures specified in Paragraph 1 above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Southern Finishing Company, Inc., for good cause shown by Southern Finishing Company, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued to Southern Finishing Company, Inc. by DEQ on June 2, 2004 and April 11, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Southern Finishing Company, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Southern Finishing Company, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Southern Finishing Company, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Southern Finishing Company, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such

violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Southern Finishing Company, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Southern Finishing Company, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Southern Finishing Company, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Southern Finishing Company, Inc.. Notwithstanding the foregoing, Southern Finishing Company, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Southern Finishing Company, Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Southern Finishing Company, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Southern Finishing Company, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of AUGUST 31, 2005.

Steven A. Dietrich

Robert G. Burnley, Director
Department of Environmental Quality

Southern Finishing Company, Inc. voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: 8/26/05

Commonwealth of Virginia

City/County of Rockingham

The foregoing document was signed and acknowledged before me this 26 day of

August, 2005, by Ed Brown, who is
(name)

President of Southern Finishing Company, Inc., on behalf of the Corporation.
(title)

Janet Manis on

Notary Public

My commission expires: 10-18-08

APPENDIX A

In addition to the foregoing, the Virginia Air Pollution Control Board orders Southern Finishing Company, Inc. (Southern Finishing) to undertake and Southern Finishing agrees to implement the terms and conditions of the following, which shall be enforceable under this Order:

- A. Within 45 days of the effective date of this Order, Southern Finishing shall submit to DEQ a report describing the corrective actions that have been taken, and containing a compliance schedule with dates by which those corrective actions shall be taken for all items referenced in the NOV No.s 2004-05-24 and 2004-05-25.
- B. Southern Finishing shall achieve compliance with all requirements of the Martinsville facility's Title V permit by the effective date of this order. Southern Finishing shall submit to DEQ a report describing the measures undertaken by the Martinsville facility to achieve compliance and certify compliance in accordance with the terms and conditions of its existing Title V permit.

APPENDIX B
Supplemental Environmental Project (SEP) – Pollution Prevention (P2)

In addition to the foregoing, the Virginia Air Pollution Control Board orders Southern Finishing Company, Inc. (Southern Finishing) to undertake and Southern Finishing agrees to implement the terms and conditions of the following Pollution Prevention (P2) Project, which shall be enforceable under this Order:

- A. Within 24 months from the effective date of this Order, Southern Finishing shall submit to DEQ documentation demonstrating that the Martinsville facility has eliminated hazardous air pollutants (HAPs) from finishes and coatings used in the facility's wood furniture production lines.
- B. In the event that within 24 months from the effective date of this Order Southern Finishing is unable to document that the Martinsville facility has entirely eliminated hazardous air pollutants from finishes and coatings used in the facility's wood furniture production lines, Southern Finishing shall pay to DEQ within 25 months of the effective date of this Order the amount set forth in the table below based on the amount of HAPs actually eliminated from the facility's coatings and finishes from the facility's 2004 HAPs emissions baseline, calculated as 10.75 tons, in accordance with the terms of Condition D.1 of this Order:

Martinsville facility 2004 HAPs emissions baseline of 10.75 tons	Payment to DEQ
* > 90% but < 100% removed	15% of \$161,870 = \$24,280
> 80% removed	25% of \$161,870 = \$40,467
> 70% removed	35% of \$161,870 = \$56,654
> 60% removed	45% of \$161,870 = \$72,841
> 50% removed	55% of \$161,870 = \$89,028
> 40% removed	65% of \$161,870 = \$105,215
> 30% removed	75% of \$161,870 = \$121,402
> 20% removed	80% of \$161,870 = \$129,496
> 10% removed	85% of \$161,870 = \$137,589
> 0% removed	90% of \$161,870 = \$145,683

*In the event that Southern Finishing is only able to document that it has eliminated between 98% but less than 100% of HAPs from the facility's coatings and finishes from the facility's 2004 HAP emissions baseline, Southern Finishing nevertheless may be considered to have reduced HAP emissions by 100% under this appendix so long as it can demonstrate to the satisfaction of DEQ that the remaining 2% or less HAPs are inherent as trace constituents in resins that because of colorant properties are a necessary component of coatings and such remaining HAPs are technically impossible to remove from those resins.

C. Southern Finishing shall submit quarterly P2 Progress Reports to DEQ within 30 days of the end of the calendar quarter. The Progress Reports shall contain the following information:

1. A detailed description of the P2 Project as implemented to date (include a list of coatings that have been discontinued, the new coating with corresponding HAP content);
2. A description of any operating problems encountered and the solutions thereto;
3. A detailed description and accounting of costs expended on the project during the preceding quarter;
4. The Martinsville facility's wood furniture production for the preceding quarter;
5. The amount of HAP's emitted during the preceding quarter calculated on a lb./gal. of coating used, lb./ton of throughput/product, and total basis.

D. Southern Finishing Company, Inc. shall submit a P2 Completion Report to DEQ within 30 days of the completion of the P2 Project. The P2 Completion Report shall contain the following information:

1. A detailed description of the P2 Project as implemented;
2. A description of any operating problems encountered and the solutions thereto;
3. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
4. Certification that the P2 project has been fully implemented pursuant to the provisions of this Order; and;
5. A description of the environmental and public health benefits resulting from implementation of the P2 Project (with a quantification of the benefits and pollutant reductions, if feasible).

E. Southern Finishing shall submit all notices and reports required by this Order to Steve A. Dietrich, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019 by first class mail.

F. Southern Finishing Company, Inc. Corporation shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to DEQ pursuant to this Order, and shall provide the documentation of any

such underlying research and data to DEQ within seven days of a request for such information.

- G. **Within 25 months** of the effective date of this Order Southern Finishing shall submit to DEQ an application to amend the Martinsville facility's Title V permit or other air operating permit in effect at that time to incorporate the HAP elimination or reduction measures identified in and undertaken pursuant to the P2 Project that is the subject of this Appendix.
- H. In the event that Southern Finishing fails to perform the P2 Project as described in this appendix, or fails to submit to DEQ any of the reports by the deadlines required in this appendix, or fails to submit substantially complete reports, or, if in the sole judgment of DEQ, Southern Finishing otherwise fails to undertake the requirements of this appendix in good faith, upon notification by DEQ, Southern Finishing shall pay to DEQ the amount of \$145,683.00, within 30 days of such notification in accordance with the terms of Condition D.1 of this Order.
- I. In the event that Southern Finishing discontinues operations at the Martinsville facility or reduces wood furniture production at the facility by greater than 50% from 2004 production levels within 5 years of the effective date of this Order, Southern Finishing Company, Inc. shall pay to DEQ the amount of \$145,683.00. Southern Finishing shall notify DEQ within 10 days of discontinuing operations or reducing by greater than 50% wood furniture production at the facility and shall pay the sum referenced in the preceding sentence within 30 days of such notification in accordance with the terms of Condition D.1 of this Order.
- J. In all documents or reports, including, without limitation, the P2 Completion Report, submitted to DEQ pursuant to this Order, Southern Finishing Company, Inc. Corporation, shall by its officers, sign and certify under penalty of law and in conformance with 9 VAC 5-20-230 that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:
- "I certify under penalty of law and I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."
- K. In the event that Southern Finishing publicizes this P2 Project or the results of this P2 Project, Southern Finishing shall state in a prominent manner that the project is part of a settlement for an enforcement action with DEQ.